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Attorneys for Plaintiffs ANGELITA GOMEZ
And the Proposed Plaintiff Class

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANGELITA GOMEZ, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

PEROT SYSTEMS CORPORATION, a
Delaware Corporation; and DOES 1 to 50,

Defendants.

Case No. CV 08-03337-SC

**ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES SHOULD
BE RELATED**

Mancera v. Perot Systems Corporation
Case No. CV 08-03064-RS

Gomez v. Perot Systems Corporation
Case No. CV 08-03337-SC

**NOTICE OF ADMINISTRATIVE MOTION TO CONSIDER WHETHER CASES SHOULD
BE RELATED**

TO THE PARTIES AND COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Plaintiff Angelita Gomez will move the Honorable Richard Seeborg of the United States District Court, Northern District of California, pursuant to Civil Local Rule 3-12(b), to determine whether this case should be related to *Mancera v. Perot Systems Corporation* (removed to this district on June 24, 2008 and designated as Case No. CV 08 3064 RS). Pursuant to Northern District Court Local Rule 7-11(b), any opposition to this administrative motion is due three days after this administrative motion is filed.

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
ADMINISTRATIVE MOTION TO CONSIDER WHETHER CASES SHOULD BE RELATED**

I. LEGAL STANDARD

Under Civil Local Rule 3-12(a), an action is related to another when:

- (1) The actions concern substantially the same parties, property, transaction or event; and
- (2) It appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.

Pursuant to Civil Local Rule 3-12(b), this Administrative Motion has been filed in the earliest-filed case, which is the *Mancera* case currently pending before this Court.

II. STATEMENT OF FACTS

A. The Mancera Complaint

On April 29, 2008, Raul Mancera filed a complaint in California Superior Court, Santa Cruz County, alleging that Defendant Perot Systems: (i) failed to pay wages; (ii) failed to pay overtime; (iii) owes waiting time penalties; and (iv) retaliated against Mr. Mancera when he raised an issue about unpaid wages. On June 24, 2008, Perot Systems removed the action to the Northern District of California, pursuant to 28 U.S.C. sections 1332, 1441, and 1446. On July 8, the *Mancera* case was reassigned to the Honorable Richard Seeborg.

B. The Gomez Complaint

On May 27, 2008, Angelita Gomez, on behalf of herself and a putative class, filed a class action complaint in California Superior Court, Alameda County, alleging that Defendant Perot Systems: (i) failed to pay wages; (ii) failed to pay overtime; (iii) owes waiting time penalties; (iv) failed to provide itemized wage statements; and (v) engaged in unlawful business practices. The complaint seeks injunctive and declaratory relief. The complaint seeks to certify a class of “all current and former employees of Perot Systems in California who worked on-call time at any time in the four years preceding the filing of this action.” On June 13, 2008, Plaintiff served Perot Systems with the Summons and Complaint. On July 10, 2008, Perot Systems removed the *Gomez* Action to

the Northern District of California, pursuant to 28 U.S.C. sections 1332 (as amended by the Class Action Fairness Act of 2005, Pub. L. 109-2, section 4(a) (“CAFA”)), 1441(a) and (b) and 1446.

Defendant previously attempted to relate both *Mancera* and *Gomez* to a third case, *Jimenez v. Perot Systems Corporation*, which was removed on May 23, 2008 and remanded by Judge Chesney on July 28, 2008. Judge Chesney denied Defendant’s motion to relate all three cases on the same day the *Jimenez* case was remanded to Alameda County Superior Court. Declaration of Christian Schreiber, ¶5. Given the remand of the *Jimenez* case, Defendant’s previous motion to relate the cases was no longer filed in the earliest-filed case. This Motion addresses that development.

III. DISCUSSION

A. Relatedness Of Actions

The *Mancera* Complaint and *Gomez* Complaint concern substantially the same parties, property, transactions or events as follows:

- i. Both cases allege wage and hour violations under the California Labor Code, including claims for wages, overtime, and waiting-time penalties;
- ii. Perot Systems is the only named Defendant in each action;
- iv. Both cases seek recovery for unpaid wages owed and waiting-time penalties; and

Litigating these three cases before different Judges would lead to an unnecessary duplication of effort, would unduly burden the parties and the Court, and would create a risk of inconsistent rulings. Here, the cases involve a single named defendant, Perot Systems. They involve the same legal and factual issues, whether Perot Systems properly paid wages and overtime to its employees under California law. And both seek payment of wages due and waiting-time penalties. For these reasons, separate assignments would lead to an unnecessary duplication of effort, would unduly burden the parties and the Court, and would create a risk of inconsistent rulings.

Counsel for Plaintiff in the *Mancera* case has stipulated to this Motion. Schreiber Decl. ¶4. Defendant has no stated opposition to this Motion. Schreiber Decl. ¶5.

IV. CONCLUSION

For the reasons set forth above, Plaintiff respectfully requests that the Court grant its motion

1 to relate this matter to the *Mancera* case.

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3 Dated: August 5, 2008

SCHNEIDER WALLACE
COTTRELL BRAYTON
KONECKY LLP

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6 /s/

7 CHRISTIAN SCHREIBER
8 Attorneys for the Plaintiffs
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